

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/797-1101

SUBJECT: Resolution - Developers Agreement

Application No., Project Name and Location:

DA 1-1-01 South Post, Inc - 4200 Shotgun Road

TITLE OF AGENDA ITEM:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTH POST INCORPORATED; PROVIDING FOR THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING IS IN PROGRESS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

On March 15, 2000, Town Council approved the South Post plat, which provided for the development of 308 detached single family homes with access provided from Shotgun Road. The applicant wishes to obtain building permits and begin construction prior to plat recordation. Broward County will allow this if the Town participates in this agreement, which stipulates the Town will not issue any building permits until the Developer provides documentation of payment of impact fees due for the construction of improvements. The Town also agrees not to issue any certificates of occupancy for the plat until the plat has been recorded as noted in this agreement.

PREVIOUS ACTIONS: None.

CONCURRENCES: None.

FISCAL IMPACT: Not applicable

RECOMMENDATION(S): Motion to approve.

Attachment(s): Resolution and backup, Land Use map, Subject Site map/Zoning map and Aerial.

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND SOUTH POST INCORPORATED; PROVIDING FOR THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING IS IN PROGRESS RELATED TO THE SOUTH POST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, South Post Incorporated proposes to develop properties known as the South Post Plat; and

WHEREAS, Broward County will allow the issuance of building permits while platting is in progress.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between Broward County, South Post Incorporated, and the Town of Davie, whereby the Town of Davie Development Services Department shall not issue any building permits until the Developer provides for documentation of payment of impact fees due for construction of improvements; and that no certificates of occupancy will be issued until the South Post Plat has been recorded in the Broward County public records.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2001.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2001.

Return recorded copy to:
Town of Davie
Planning & Zoning Division
6591 Orange Drive
Davie, Florida 33314

Document prepared by:
Jason Eppy
H.J. Zimmerman & Associates, Inc.
9000 West Sheridan Street, Ste. 100
Pembroke Pines, FL 33024

AGREEMENT

Among

BROWARD COUNTY

and

TOWN OF DAVIE, FLORIDA

and

SOUTH POST, INC.

Relating to

THE ISSUANCE OF BUILDING PERMITS
WHILE PLATTING IS IN PROGRESS

This is an Agreement between: BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns hereinafter referred to as "COUNTY," through its Board of County Commissioners:

AND

TOWN OF DAVIE, FLORIDA, a municipal corporation, organized and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "TOWN;"

AND

SOUTH POST, INC., its successors and assigns, hereinafter referred to as "DEVELOPER."

WITNESSETH:

WHEREAS DEVELOPER, is the owner of a certain parcel of land, described in Exhibit "A" attached hereto and known as the South Post Plat, Plat No. 017-MP-00 (the "Plat") (Lot N/A) located on Shotgun Road, and situated within the Town of Davie, on which parcel of land DEVELOPER contemplates the construction of 308 detached single family homes as shown on the site plan; and

WHEREAS, the Plat was approved by the Board of County Commissioners on _____, 2001; and

WHEREAS, DEVELOPER is now desirous of obtaining building permits from the TOWN so that DEVELOPER may construct 75 detached single family homes as shown on the site plan; and, hereinafter referred to as the "Improvements," within the boundaries of said Plat; and

WHEREAS, the TOWN may not ordinarily issue building permits to DEVELOPER for construction of said Improvements within the boundaries of the Plat (Lot N/A), prior to recordation of said Plat; and

WHEREAS, on _____, 2001, the COUNTY authorized the issuance of building permits by the TOWN to DEVELOPER for construction of said Improvements within the boundaries of the Plat (Lot N/A), prior to plat recordation;

WHEREAS, DEVELOPER shall be required to pay actual or estimated impact fees to the COUNTY for the Improvements which DEVELOPER wishes to construct prior to the issuance of the building permits by the TOWN; and

WHEREAS, the COUNTY requested and DEVELOPER agreed that, prior to the issuance of building permits, the parties shall enter into an Agreement setting forth specific conditions applicable to the issuance of such building permits; and

WHEREAS, this Agreement will facilitate the construction of the Improvements within the boundaries of the Plat (Lot N/A), by DEVELOPER during the time that preparation for the recordation of the Plat of the property is proceeding; NOW, THEREFORE,

IN CONSIDERATION of the promises and mutual covenants hereinafter contained, the parties do agree as follows:

1. The above recitals are true and correct and incorporated herein.
2. The COUNTY represents to the TOWN that it does not object to the TOWN's issuance of building permits to DEVELOPER for construction of 75 detached single family homes (the "Improvements"), within the boundaries of the South Post Plat (Lot N/A), prior to the recordation of said Plat, subject to the following conditions to assure compliance with the Broward County Land Use Plan:
 - (a) No building permit shall be issued by the TOWN unless and until DEVELOPER shall document payment of the impact fees which are due for construction of the Improvements, pursuant to Chapter 5, Article IX, Broward County Code of Ordinances, the Land Development Code; said impact fees may be estimated in those instances when the COUNTY is not able to determine actual impact fees at the time of issuance of the building permits; and
 - (b) No certificate of occupancy, which is complementary to the building permits, shall be issued by the TOWN unless and until DEVELOPER shall record in the Official Records of Broward County said Plat which has been approved by the Broward County Board of County Commissioners.

- (c) Should the DEVELOPER fail to record the Plat approved by the Board on _____, 2001, within eighteen (18) months of the date of approval, or otherwise allow the plat to expire, the building permits issued shall be revoked by the TOWN and any improvements constructed pursuant to such permits shall be removed within three (3) months of expiration of the current plat approval unless the plat is reapproved within three (3) months and recorded before expiration of the new approval. The COUNTY shall refund all impact fees paid for building permits where the improvements are demolished.
 - (d) Conditions 2(b) and (c) shall appear on the face of the building permits issued by the TOWN. However, failure of the permits to so indicate shall not alter any terms of this agreement or the right of the COUNTY and the TOWN to enforce the terms of this agreement.
- 3. The TOWN agrees that any building permits issued for the construction of said Improvements will be issued in accordance with Paragraph 2, and the TOWN reserves the right to evaluate DEVELOPER's application for building permits for compliance with all existing laws, ordinances and regulations controlling the issuance of building permits for construction within the TOWN. The issuance of building permits shall be at the discretion of the TOWN.
 - 4. Nothing in this Agreement shall prejudice the COUNTY's right to impose conditions on approval of the Plat covering the lands described herein which are required by COUNTY plat ordinances and regulations or are otherwise necessary to insure the public health, safety, and welfare of the residents of Broward County.
 - 5. DEVELOPER agrees not to occupy the Improvements unless and until a certificate of occupancy has been issued.
 - 6. In those instances when estimated impact fees are paid they shall be adjusted at the time of Plat recordation and any underpayment or overpayment shall be taken into consideration.
 - 7. The DEVELOPER assumes the risks associated with constructing the Improvements prior to plat recordation. The issuance of the building permits before final plat recordation shall not be considered by DEVELOPER, the COUNTY or the TOWN as a grant to DEVELOPER of any vested right whatsoever for the use, occupancy, or completion of the construction of Improvements within the boundaries of the Plat (Lot N/A), nor shall the COUNTY or the TOWN be deemed estopped from enforcing the terms of this Agreement because of the issuance of the building permits or construction completed pursuant to such permits. Furthermore, if the presently approved plat expires without the plat being recorded, the DEVELOPER shall be required to meet all land development regulations in effect at the time the new plat is submitted and shall be subject to new concurrency determinations.
 - 8. This Agreement shall be recorded in the Public Records of Broward County, Florida, at the DEVELOPER's expense. Recordation of the South Post Plat shall be an automatic release of the obligations of DEVELOPER set forth herein.
 - 9. APPLICABLE LAW AND VENUE. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Broward County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the _____ day of _____, 2001; the TOWN through its Town Council, authorized to execute same by Town Council action on the _____ day of _____, 2001, and DEVELOPER signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and Ex-
Officio Clerk of the Board of
County Commissioners of Broward
County, Florida

Chair

_____ day of _____, 2001

Approved as to form
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301
Telephone (954) 357-7600
Telecopier (954) 357-6968

By _____

Assistant County Attorney

AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF DAVIE, AND SOUTH POST, INC., RELATING TO THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING IS IN PROGRESS

TOWN

TOWN OF DAVIE,
through its Town Council

Witness signature

By: _____
Mayor

Witness name printed

_____ day of _____, 2001

Witness signature

Witness name printed

ATTEST

By: _____
Town Administrator
_____ day of _____, 2001

APPROVED AS TO FORM:

By: _____
Town Attorney

STATE OF FLORIDA)

SS

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of _____, by
_____ who is personally known to me or who produced _____
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Type or print name

My commission expires

Commission No.

AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF DAVIE, AND SOUTH
POST, INC., RELATING TO THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING
IS IN PROGRESS

[Signature]
Witness signature

Ed Zimmerman
Witness name printed

[Signature]
Witness signature

JOANN LAWRENCE
Witness name printed

DEVELOPER: South Post, Inc.

[Signature]
Signature

Howard J. Zimmerman, VP
Name printed

9000 Sheridan Street, Pembroke Pines, FL 33024
Address

22nd day of January, 2001

CORPORATE SEAL

CORPORATION

STATE OF FLORIDA)

SS

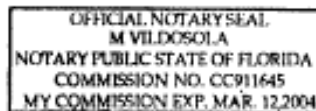
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 22nd day of JAN, 2001, by
HOWARD J. ZIMMERMAN who is personally known to me or who produced KNOWN TO
ME as identification and who did not take an oath.

[Signature]
NOTARY PUBLIC
M. VILLOSOLA
Type or print name

My commission expires

Commission No. _____



AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF DAVIE, AND SOUTH
POST, INC., RELATING TO THE ISSUANCE OF BUILDING PERMITS WHILE PLATTING
IS IN PROGRESS

MORTGAGEE

[Signature]
Witness signature

Howard J. Zimmerman
Witness name printed

[Signature]
Witness signature

Ed Zimmerman
Witness name printed

HENRY A. POWELL AND HARRIET POWELL
Mortgagee
Address: 1777 SW 15th ST, FT. LAUDERDALE, FL 33316

By and through:

[Signature]
Title:

2nd day of January, 2001

CORPORATE SEAL

MORTGAGEE

STATE OF FLORIDA)

SS

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 2nd day of Jan 2001, by
Henry A. Powell who is personally known to me or who produced
as identification and who did not take an oath.

[Signature]
NOTARY PUBLIC

Type or print name

Commission No.

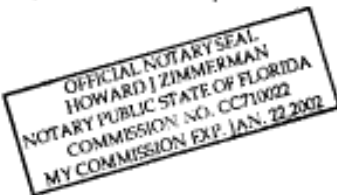


EXHIBIT "A"

DESCRIPTION

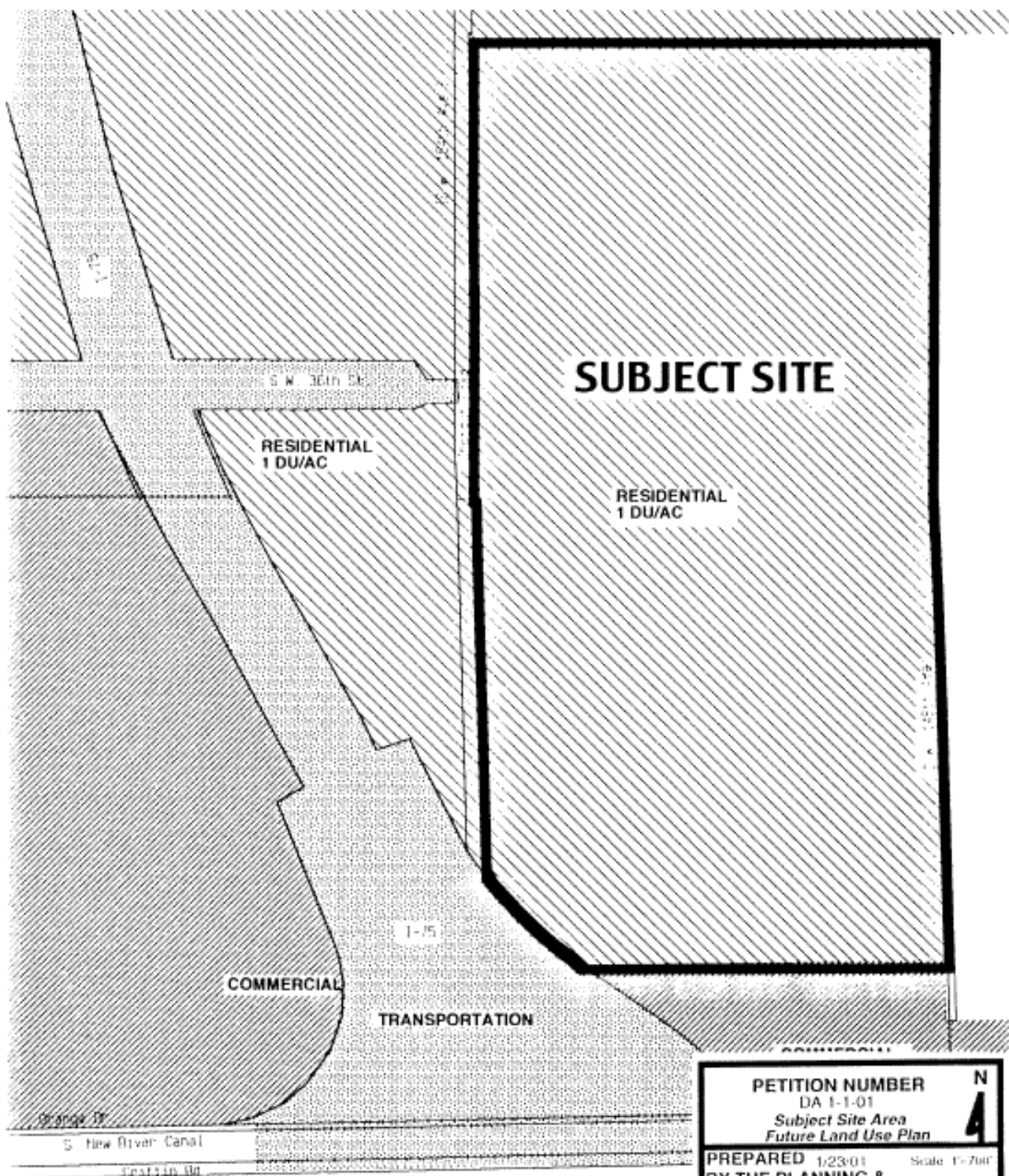
A PORTION OF SECTIONS 21 AND 28, TOWNSHIP 28 NORTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA, INCLUDING ALL OF TRACTS 49 THROUGH 56 AND PORTIONS OF TRACTS 57 THROUGH 64 OF SAID SECTION 21 OF FLORIDA TRUST LANDS COMPANY'S SUBDIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

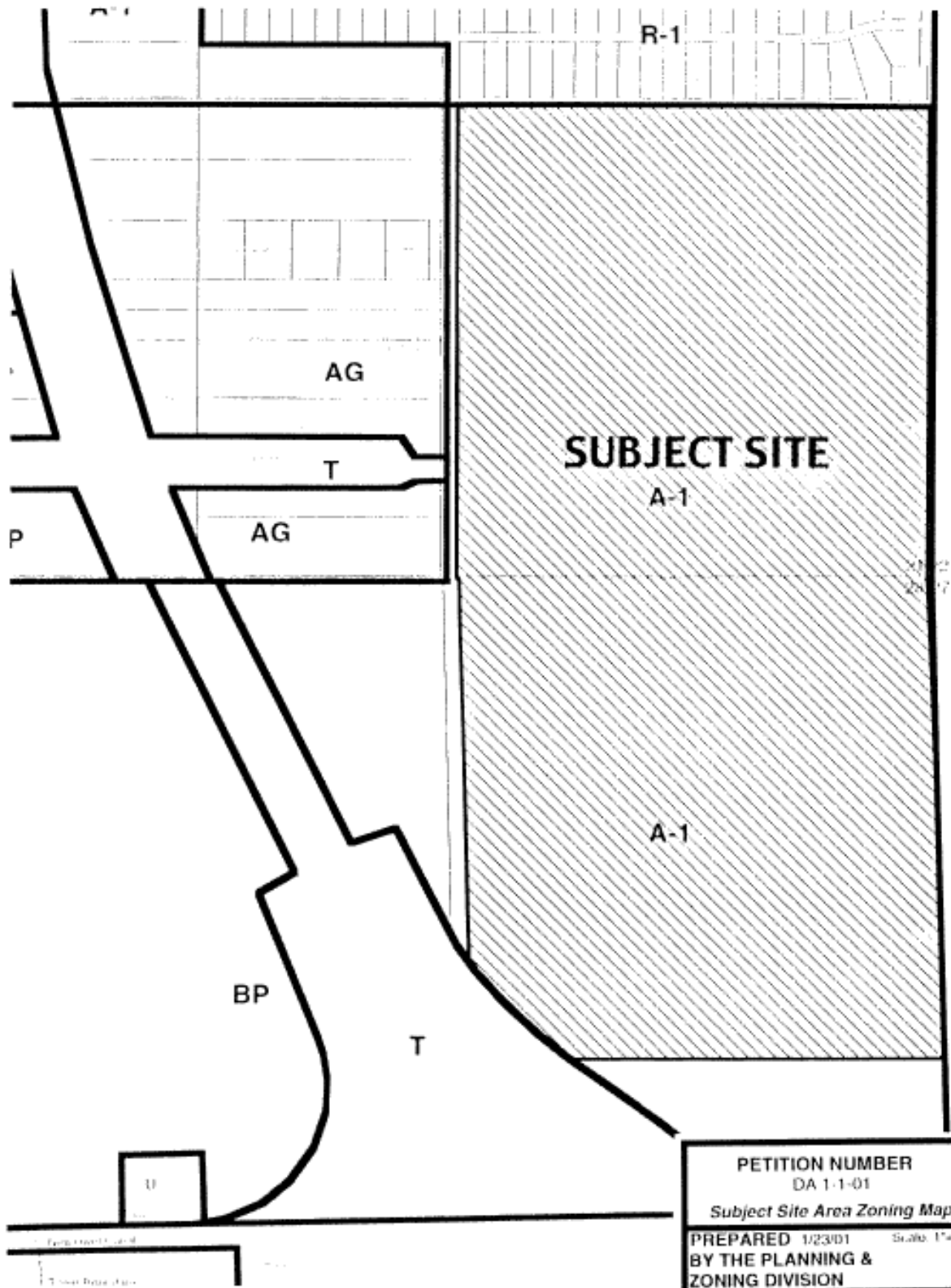
BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 28, THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER (THE 1/4) OF SAID SECTION 28, THENCE BY ANGLES SOUTH 04°15'45" EAST 2641.07 FEET TO THE EAST QUARTER (THE 1/4) CORNER OF SAID SECTION 28, THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER (THE 1/4), SOUTH 00°00'00" WEST 2000.78 FEET TO THE NORTHEAST CORNER OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, THENCE ALONG SAID NORTHEAST CORNER BOUNDARY THE FOLLOWING BEING (1) COURSES: (1) NORTH 62°52'12" WEST 69.26 FEET TO A POINT OF CURVATURE OF A 2365.23 FOOT RADIUS CURVE CONCAVE TO THE NORTH-N.E. (2) NORTHERLY CURVE SAID CURVE THROUGH A CENTRAL ANGLE OF 12°47'36" AN ARC DISTANCE OF 508.71 FEET TO A POINT OF CURVATURE OF A 270.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST (3) NORTHERLY CURVE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°10'51" AN ARC DISTANCE OF 109.26 FEET TO A POINT OF TANGENCY ON THE EAST RIGHT OF WAY LINE OF VERNON ROAD AS DESCRIBED IN OFFICIAL RECORD BOOK 4940, PAGE 626 OF SAID PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, THENCE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°41'25" WEST 2000.78 FEET TO THE NORTH LINE OF SAID SECTION 21, THENCE ALONG THE SOUTH LINE OF SAID SECTION 21, NORTH 00°00'00" WEST 2642.58 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER (THE 1/4) OF SAID SECTION 21, THENCE ALONG SAID NORTH LINE, NORTH 00°00'00" EAST 2664.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 21, THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER (THE 1/4), SOUTH 00°00'00" EAST 2641.44 FEET TO THE POINT OF BEGINNING.

SAID LANDS BEING, LYING, AND BEING IN THE TOWNSHIP 28 NORTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA AND CONTAINING 15,430,190 SQUARE FEET (350.33 ACRES) MORE OR LESS.



PLAT MAP
(NOT TO SCALE)





R-1

AG

T

AG

P

SUBJECT SITE

A-1

A-1

BP

T

U

PETITION NUMBER
DA 1-1-01

Subject Site Area Zoning Map

PREPARED 1/23/01 BY THE PLANNING &
ZONING DIVISION

Scale: 1"=200'

N

